

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

Jessie Wilson,

Case No. 1:19 CV 1494

Petitioner,

ORDER

-vs-

JUDGE JACK ZOUHARY

Lyneal Wainwright,

Respondent.

Petitioner Jessie Wilson filed for a Writ of Habeas Corpus under 28 U.S.C. § 2254, asserting two grounds for relief: (1) ineffective assistance of trial counsel; and (2) ineffective assistance of appellate counsel. Respondent moved to dismiss the Petition, or alternatively to stay the proceeding, arguing Petitioner failed to exhaust his first ground in state court (Doc. 6). Petitioner responded by moving to dismiss that ground without prejudice (Doc. 7). Magistrate Judge David Ruiz issued a Report and Recommendation (R&R) (Doc. 9) recommending this Court allow Petitioner to dismiss ground one.

Neither party timely objected to the R&R. As such, this Court adopts it in its entirety. *See Miller v. Currie*, 50 F.3d 373, 380 (6th Cir. 1995). Respondent's Motion (Doc. 6) is denied; Petitioner's Motion (Doc. 7) is granted. This matter is referred back to Magistrate Judge Ruiz for consideration of the merits of the remaining claim.

IT IS SO ORDERED.

s/ Jack Zouhary  
JACK ZOUHARY  
U. S. DISTRICT JUDGE

February 20, 2020